

REMARKS

Claims 1-8 were filed on March 11, 2004. In the Office Action mailed on October 6, 2005, the Examiner rejected Claims 7-8 under 35 U.S.C. §112 as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. The Examiner also rejected Claims 1, 4-6, and 8 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 3,824,536 issued to Cherico ("the Cherico '536 Patent") in view of U.S. Patent No. 6,781,516 issued to Reynard et al. ("the Reynard '516 Patent"). Claims 2-3 were rejected under 35 U.S.C. §103(a) as being unpatentable over the Cherico '536 Patent in view of the Reynard '516 Patent as applied to Claim 1, and further in view of U.S. Patent Application No. 2004/0056763 filed by Fischer et al. ("the Fischer '763 Application"). Claim 7 was rejected under 35 U.S.C. §103(a) as being unpatentable over the Cherico '536 Patent in view of the Reynard '516 Patent as applied to Claim 1, and further in view of U.S. Patent No. 6,807,471 issued to Strelnieks ("the Strelnieks '471 Patent").

Applicant has considered the Office Action and has amended the claims. Specifically, independent Claim 1 and dependent Claims 7 and 8 have been amended. Based upon these amendments and the following remarks, Applicant respectfully submits that the claims remaining in the application, i.e. Claims 1-8, are in condition for allowance.

CLAIM REJECTIONS UNDER 35 U.S.C. §112.

The Examiner rejected claims 7 and 8 under 35 U.S.C. §112 as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. In particular, the Examiner rejected Claim 7 because the term "said sensor" lacked antecedent basis within the claims. Applicant has amended Claim 7 to include "...said sensor means..." which specifically refers to the "sensor means" contained in newly amended

independent Claim 1, and respectfully submits that Claim 7 is now in condition for allowance. Further, the Examiner rejected Claim 8 as it added a pair of sensors into the claimed combination which the Examiner stated were redundant recitations of the sensor means already set forth in Claim 1. Applicant has amended Claim 8 to more clearly show that no additional sensors are introduced, and Applicant respectfully submits that Claim 8 is now in condition for allowance.

CLAIM REJECTIONS UNDER 35 U.S.C. §103

Claims 1, 4-6, 8

The Examiner has rejected Claims 1, 4-6, and 8 under 35 U.S.C. §103(a) as unpatentable over the Cherico '536 Patent in view of the Reynard '516 Patent. Applicant has amended Claim 1, and respectfully submits that the recited elements of amended Claim 1 are not taught or even suggested, alone or in combination, by the Cherico '536 patent and/or the Reynard '516 patent. In addition, because Claims 4-6 and 8 depend from amended Claim 1, which is believed to be allowable, Applicant respectfully submits that these Claims are in condition for allowance.

It is well settled that all words recited in a claim must be taught by the cited references for an obviousness determination to be valid. *In re Wilson*, 424 F.2d 1382 (C.C.P.A. 1970). Amended Claim 1 now states in relevant part: "...sensor means mounted on said chock means for detecting a predetermined selected component of said vehicle, said sensor means selected from the group consisting of a motion detector, an inductive proximity sensor, a capacitive proximity sensor, and a photo-electric sensor;...". The basis for the amendment appears on page 10, lines 3-7 of the specification. Applicant respectfully submits that neither the Cherico '536 patent nor the Reynard '516 patent teach or even suggest, alone or in combination, the non-mechanical or non-contact type sensors recited in newly amended Claim 1. Applicant notes that the Examiner stated in paragraph 5 of the Office Action "Cherico, as modified, shows the basic

claimed docking bay system, but varies from the claims by having a mechanical sensor at the chock...”(emphasis added). Moreover, the Reynard ‘516 patent also fails to teach or suggest a non-mechanical, non-contact type sensor as has been set forth in newly amended Claim 1. The Reynard ‘516 patent discusses at Column 9, line 54 “...a vehicle restraint 20 usually requires 3 sensors, one each to indicate that the vehicle restraint 20 is stored, fully raised, and whether the ICC bar of the truck or trailer has been engaged.” No further discussion of the sensors is provided by the Reynard ‘516 patent. Thus, there is no language contained within the Reynard ‘516 patent that would teach or suggest a non-contact, non-mechanical type sensor as is particularly and distinctly set forth in Applicant’s newly amended Claim 1. Therefore, amended Claim 1 overcomes the rejection. Because Claims 4-6 and 8 depend from what is now believed to be allowable amended Claim 1, Applicant respectfully submits that these Claims also overcome the rejection.

Claims 2-3

The Examiner also rejected Claims 2 and 3 under 35 USC § 103(a) as being obvious over the Cherico ‘536 patent, the Reynard ‘516 patent, and the Fischer ‘763 application. Applicant has amended Claim 1 to incorporate an element previously only recited in Claim 2 and that is the subject of this obviousness rejection. Applicant respectfully submits that the Fischer ‘763 application is an improper prior art reference and, therefore, cannot serve as a basis for an obviousness rejection.

More particularly, the Examiner states at paragraph 5 of the Office Action that: “It would have been obvious to one of ordinary skill in the art at the time the invention was made by applicant to modify the docking bay system of Cherico by substituting an inductive proximity

sensor for the mechanical sensor, as to use a non-contact sensor, for reliability, as taught by Fischer, et al.” However, the Fischer ‘763 application is an improper prior art reference with regard to Applicant’s invention. More particularly, the Fischer ‘763 application has an effective date of July 1, 2003. The 37 CFR §1.131 affidavit of Applicant along with the accompanying exhibits, attached hereto and incorporated herein by reference, demonstrate that Applicant’s invention was reduced to practice prior to the effective date of the Fischer ‘763 application. As a result, the Fischer ‘763 application is not a valid prior art reference and cannot serve as a basis for an obviousness rejection of Claim 2 or of Claim 1 as now amended. Because Claim 3 depends from what are now believed to be allowable amended Claim 1 and Claim 2, Applicant respectfully submits that Claim 3 is also now in condition for allowance.

Claim 7

The Examiner also rejected Claim 7 under 35 USC §103(a) as being obvious over the Cherico ‘536 patent in view of the Reynard ‘516 patent, as applied to Claim 1, and further in view of the Strelnieks ‘471 patent. Because Claim 7 depends from what is believed to be allowable independent Claim 1 as now amended, Applicant respectfully submits that Claim 7 also is now in condition for allowance.

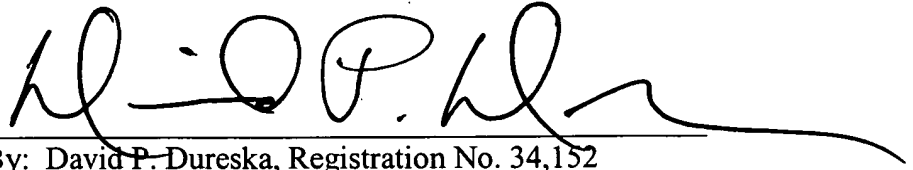
Applicant was the first to recognize the advantages of combining a non-mechanical, non-contact type sensor with a chock means, a programmable microcontroller, and an indicator means connected to the microcontroller for use in a docking bay for loading and unloading a heavy-duty vehicle. By combining the elements as Applicant has, a new and unexpected result has been achieved.

The results produced by Applicant’s invention have been long sought after by those skilled in the art, but until Applicant’s invention the results have been unobtainable.

In view of the above, it is submitted that the Claims remaining in the application now are in condition for allowance and reconsideration of the rejections is respectfully requested.

Respectfully submitted,

BUCKINGHAM, DOOLITTLE & BURROUGHS, LLP

A handwritten signature in black ink, appearing to read 'D. P. Dureska', with a long horizontal flourish extending to the right.

By: ~~David P. Dureska~~, Registration No. 34,152
Brent L. Moore, Registration No. 42,902

BLM/edf

4518 Fulton Drive, N.W.
P. O. Box 35548
Canton, OH 44735-5548
Telephone: (330) 491-5289
Facsimile: (330) 252-5454
E-Mail: bmoore@bdblaw.com
Attorney Docket No.: HEND-BQ (45007-263)
«CT2:475209_v3»